# TRANSLATION PATENT COOPERATION TREATY POT

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference  A181-08PCT				FOR FURTHER A	ACTION	See Form PCT/IPEA/416		
International application No.				International filing d	ate (day/month/year)	Priority date (day/month/year)		
PCT/JP2005/000155				07.01.200	)5	07.01.2004		
International Patent Classification (IPC) or national classification and IPC								
A01H1/00, 5/00, C12N15/62								
Applicant  JAPAN SCIENCE AND TECHNOLOGY AGENCY								
1.	<ol> <li>This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</li> </ol>							
2.	This REPORT consists of a total of sheets, including this cover sheet.							
3.	3. This report is also accompanied by ANNEXES, comprising:							
	a. >	(sent to the	applicant and	to the International Bi	ureau) a total of 2	sheets, as follows:		
	sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative							
	Instructions).  sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond							
	the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental							
	Box.							
	b (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))							
	, containing a sequence listing and/or tables							
	related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).							
4.	This re	eport contains ind	ications relatir	ng to the following ite	ms:			
	$\boxtimes$	Box No. I	Basis of the	report				
	Ш	Box No. II	Priority					
		Box No. III	Non-establis	shment of opinion with	h regard to novelty, inventi	ive step and industrial applicability		
		Box No. IV	Lack of unit	y of invention				
	$\boxtimes$	Box No. V		atement under Article dexplanations support		ty, inventive step or industrial applicability;		
		Box No. VI	Certain docu	uments cited				
		Box No. VII	Certain defe	cts in the international	l application			
		Box No. VIII	Certain obse	ervations on the interna	ational application			
					Date of completion of thi	s report		
Name and mailing address of the IPEA/JP					Authorized officer			
Facsimile No.					Telephone No.			

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No. PCT/JP2005/000155

Box No. I Basis of the report With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item. This report is based on translations from the original language into the following language \_\_\_ which is the language of a translation furnished for the purposes of: international search (Rule 12.3 and 23.1(b)) publication of the international application (Rule 12.4) international preliminary examination (Rule 55.2 and/or 55.3) With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the international application as originally filed/furnished the description: as originally filed/furnished received by this Authority on received by this Authority on the claims: as originally filed/furnished as amended (together with any statement) under Article 19 received by this Authority on 04.11.2005 \_\_\_\_\_ received by this Authority on the drawings: as originally filed/furnished sheets received by this Authority on sheets\* received by this Authority on sheets\* a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing. The amendments have resulted in the cancellation of: the description, pages \_\_\_\_ the drawings, sheets/figs the sequence listing (specify): any table(s) related to sequence listing (specify): This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)). the description, pages \_\_\_ the claims, nos. the drawings, sheets/figs the sequence listing (specify): any table(s) related to sequence listing (specify): If item 4 applies, some or all of those sheets may be marked "superseded."

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YES
NO
YES
NO
YES
NO

- 2. Citations and explanations (Rule 70.7)
  - Document 1: WO 03/055903 A1 (National Institute of Advanced Industrial Science and Technology), 10 July 2003
  - Document 2: K. HIRATSU et al., Plant J., 2003, Vol. 34, No. 5, pages 733 to 739
  - Document 3: S. STEINER-LANGE, Plant J., 2003, Vol. 34, No. 4, pages 519 to 528
  - Document 4: J. L. RIECHMANN, Proc. Natl. Acad. Sci. USA, 1996, Vol. 93, No. 10, pages 4793 to 4798
  - Document 5: WO 03/013227 A2 (Mendel Biotechnology Inc.), 20 February 2003

Claims 1 to 36 do not involve an inventive step in the light of documents 1 to 5. Documents 1 and 2 indicate that it is possible to regulate the expression of a target gene by causing a plant to produce chimeric proteins wherein a functional peptide for transforming a given transcription factor into a transcription inhibitor has been fused to with transcription factor such as EIN3 or CUC1 in order to regulate the transcription of the target gene, which is the gene that is transcribed by means of the aforementioned transcription factor, in said plant. In addition, document 3 indicates that it is

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

possible to produce sterile plants by damaging the MYB26 gene, which is a gene that codes a transcription factor. Such being the case, it would have been easy for a person skilled in the art to conceive of producing sterile plants by selecting the transcription factors that are presented in documents 3 to 5 as the transcription factors in the inventions disclosed in documents 1 and 2; producing DNA which encodes chimeric proteins that comprise a functional peptide for transforming a given transcription factor into a transcription inhibitor; and then expressing said DNA within a plant in order to regulate the transcription of the target gene, which is the gene that is transcribed by means of the aforementioned transcription factor, in said plant.

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Supplemental Box Relating to Sequence Listing						
Continuation of Box No. I, item 2:						
1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this report was established on the basis of:						
a. type of material  a sequence listing table(s) related to the sequence listing						
b. format of material in written format in computer readable form  c. time of filing/furnishing contained in the international application as filed filed together with the international application in computer readable form						
furnished subsequently to this Authority for the purposes of search and/or examination						
received by this Authority as an amendment* on						
2. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.						
* If item 4 in Box No. I applies, the listing and/or table(s) related thereto, which form part of the basis of the report, may be marked "superseded."						